



HOME BUILDERS ASSOCIATION OF CONNECTICUT, INC.

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Business*

March 6, 2012

To: Senator Gary D. LeBeau, Co-Chairman
Representative Jeffrey J. Berger, Co-Chairman
Members of the Commerce Committee

From: Bill Ethier, Chief Executive Officer

Re: House Bill 5344, AAC Streamlining the State's Stormwater General Permitting Process

The HBA of Connecticut is a professional trade association with almost 1,000 member firms statewide, employing tens of thousands of Connecticut citizens. Our members, all small businesses, are residential and commercial builders, land developers, home improvement contractors, trade contractors, suppliers and those businesses and professionals that provide services to our diverse industry. Our members build 70% to 80% of all new homes and apartments in the state each year.

We strongly support HB 5344 as it will significantly streamline the lengthy and expensive DEEP stormwater general permit (SW GP) process, while not changing any substantive requirement for controlling stormwater runoff, ensuring protection of the environment.

Background: DEEP regulates SW runoff through several permits, which are in addition to local government regulations requiring soil erosion and sediment controls. DEEP's SW GP requirements are extensive to ensure the protection of our waters – *that's not the issue*. The issue is the *permit review process*, which HB 5344 addresses.

Federal law requires DEEP to update its SW GPs every five years. DEEP's proposed new construction SW GP process will be longer and more expensive because – without the process outlined in HB 5344 – SW control plans would go to an outside regional Soil and Water Conservation District for review, which could lead to costly delays. Very high fees would also be paid to the districts. Applications for SW GPs would also be reviewed by DEEP, including its wildlife staff for endangered species issues and other groups for historic preservation and archeological reviews, followed by a public comment process on every permit registration. *The outside district review is a major concern to the industry because of the districts' high fees, possible delays and reports that some of the conservation districts are not objective and are biased against development. Additional DEEP reviews are also a concern due to limited staff resources in the agency.*

The Solution: HB 5344 creates a greatly streamlined and more cost effective permitting alternative that allows “qualified professionals” to certify to DEEP that stormwater control plans meet permit requirements. DEEP must accept the certifications, but the process has checks and balances to ensure the integrity of the certifications and is subject to strong enforcement tools, including audits, to ensure SW GP registrations comply with the law.

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HB 5344 will greatly improve CT's economic and housing development process while protecting the environment. DEEP, CT Fund for the Environment (CFE), licensed professional engineers, licensed landscape architects and the HBA of CT have all signed off on this new approach to permitting. For the reasons above and all of the following additional reasons, we urge your support for HB 5344:

Unlike last year's bill, no new license is required for qualified professionals (QPs), nor are they placed on a list at DEEP. **QPs will be defined in DEEP's permits; if you meet the definition, you can certify.** For the construction SW GP – these professionals will be limited to licensed professional engineers and licensed landscape architects.

The legislation does not authorize anyone to do work without a license if such work requires a license.¹ Any engineered SW control system can be done ONLY by licensed professional engineers; see HB 5344, lines 33-36.

QPs will have to attain certain years of experience because the certification is in lieu of DEEP or outside Conservation District review of stormwater plans. Everyone wants to make sure that people doing this work are competent to do it right. Lesser experienced professionals can still work on SW control plans; they just cannot certify to DEEP.

DEEP will audit certifications and enforce compliance to ensure integrity of the program and correct any materially inaccurate, incomplete or misleading certifications.²

Municipal soil erosion and sediment control regulations are not affected by HB 5344.

DEEP has had a program since the mid 1990s allowing licensed environmental professionals (LEPs) to certify hazardous waste remediation compliance to the agency. **If we can do it for LEPs and hazardous waste compliance, we can do this for stormwater control compliance**, but in a way that doesn't create a new license requirement for qualified professionals. We have been negotiating for almost two years with DEEP and CFE to incorporate the professional certification of stormwater control plans into the draft new construction activity SW GP. However, DEEP also has other SW GPs for industrial activities and municipal activities (i.e., its MS4 permit) and this legislation could benefit those permit processes as well.

Please support HB 5344 as a significant new way to streamline a major DEEP permit requirement that affects most manufacturing, industrial, economic and housing development activity, as well as municipalities. Professional certifications of permit compliance could serve as a model for many other agency permit processes as well. Thank you for considering our views on this important legislation.

¹ Stormwater controls are divided between engineered systems, which only a licensed professional engineer can do (culverts, drainage basins, etc.), and non-engineered systems (hay bales, silt fencing, rain gardens), which licensed landscape architects can also do.

² Commissioner Esty has said his goal would be to audit up to but no more than 10% of certifications received.